

**To:** Helms, Greg[Helms.Greg@epa.gov]; Devlin, Betsy[Devlin.Betsy@epa.gov]; Elliott, Ross[Elliott.Ross@epa.gov]; Lewis, Jen[Lewis.Jen@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Dufficy, Craig[Dufficy.Craig@epa.gov]  
**Cc:** Pratt, Stacie[pratt.stacie@epa.gov]; Briggs-Steuteville, Sheila[Briggs-Steuteville.Sheila@epa.gov]  
**From:** rogers, rick  
**Sent:** Thur 5/8/2014 5:19:29 PM  
**Subject:** FW: MCHM Request from WV

Written request has arrived.

**From:** Armstead, John A.  
**Sent:** Thursday, May 08, 2014 1:15 PM  
**To:** Mulkey, Marcia; Ajl, Diane; Briggs-Steuteville, Sheila; rogers, rick  
**Subject:** MCHM Request from WV

Here is the State's official request to us for concurrence on their interpretation.

Ex. 5 - Deliberative

## **Ex. 5 - Deliberative**

***John A. Armstead, Director***

***Land and Chemicals Division (3LC00)***

***215-814-3100 (o)***

***Leadership - Commitment - Determination***

***for***

***A Safe, Clean, and Sustainable Future***

**From:** Mandirola, Scott G [<mailto:Scott.G.Mandirola@wv.gov>]  
**Sent:** Thursday, May 08, 2014 1:02 PM  
**To:** Armstead, John A.  
**Cc:** Sizemore, Joe M; Boggs, Kristin A

**Subject:** Request for concurrence

Dear Mr. Armstead,

As you are aware, a large chemical spill occurred in West Virginia on January 9 of this year. As the West Virginia Department of Environmental Protection (WVDEP) responded and began to compel proper remediation of the site of the spill by the responsible party, the agency determined the material that was released, Crude MCHM, does not meet the definition of a RCRA Hazardous Waste. Crude MCHM does not appear on any "list" of hazardous waste in §261.33. Furthermore, according to available information (MSDS, generator knowledge, field screening) does not exhibit a hazardous characteristic as specified in §261.21 through 24. In accordance with this non-hazardous determination, contaminated debris from the remedial activities and waste water generated from the site has also been determined to be non-hazardous. WVDEP would like you to concur with this non-hazardous determination. Specifically, WVDEP requests answers to these questions:

1. Does USEPA consider Crude MCHM to be a hazardous waste when discarded?
2. Does USEPA consider remedial waste (contaminated debris and waste water) containing Crude MCHM to be a hazardous waste when discarded?

Should you have any questions regarding this matter, please contact me at 304-926-0499, extension 1058. Thank you for your prompt attention to this matter and could you please confirm receipt of this request.

Scott G. Mandirola

Director, Division of Water and Waste Management

West Virginia Department of Environmental Protection

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